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App No.: 10/849744
Title: Debris Gathering And Pickup Tool
Inventor(s): DeSanti
Docket No.: US0304/183R
Filing Date: 20 May 2004

Interview Date/Time: Tuesday, 28 December 2004 (Early AM)
Examiner(s): Arpad F. Kovacs
Agent: F. S. Tierno, Island Patent
Reg. No.: 39,399

Applicant Interview Summary

Commission for Patents
Alexandria, VA, 22313-1450

Dear Sir/Madam:

In order to comply with 37 CFR 1.133, and section 713.04 of the Manual of Patent Examining Procedure (MPEP), please find provided below a written statement of the substance of the interview of 28 December 2004, which was conducted with Examiner Kovacs of Art Group 3671 by way of telephone.

Claims Discussed: Claims 1, 4, 5, and 12-14

Prior Art Discussed:

Kerry (US 3,601,966) - Related to 102(b) rejection, described and claimed structures
Gascon (US 4,292,794) - Another typical 1-piece prior art device, using pivot links, etc.
Tolliver (US 5,303,536) - Related to "locking mechanism" of Fig. 3a

Overview of principle 102(b) related arguments presented:

1. Applicant's invention is comprised of two sub-units: a gathering portion and a grasping portion. (independent claims, sub-parts "a" and "b")

Kerry describes and claims a "combination rake and pickup device" - one piece with several moving/rotating portions, not two cooperating slidably coupleable sub-units.

2. The "slidable coupling" relationship of applicant's device is between the gathering portion and the grasping portion. (See sub-part "c" of each independent claim)

Kerry provides for a slidable coupling of only the "operator sleeve", the motion of which is converted or translated to rotational motion by pivot links 24/26 and resilient member 34. Importantly, the second rake head of Kerry, as described and claimed by Kerry is NOT fixed directly to operator sleeve (as it is with applicant's claimed device).

3. A required limitation of the applicant's device, as claimed in each independent claim, calls for the fixing of each of the gathering (rake) head, and the grasping member, at a pre-selected and fixed downward angle, with respect to the elongated handle and the grasping sleeve, respectively. Discussed with the Examiner that the prior art does not teach this limitation, and that this limitation is an operative requirement with the presently described and claimed device of the applicant.

Overview of principle arguments related to drawing objections:

1. Applicant quoted the second sentence of 37 CFR 1.83(a) - reproduced below:

... However, conventional features disclosed in the description and claims, where their detailed illustration is not essential for a proper understanding of the invention, should be illustrated in the drawings in the form of a graphical drawing symbol or a labeled representation (e.g., a labeled rectangular box). ...

Applicant contended that this section of the CFR actually encourages the use of block diagram representations for well known "conventional features".

2. Applicant believes and stated that skilled persons could readily provide these conventional features in a variety of embodiments after a review of the applicant's specification and the figures, especially Fig. 7. Applicant indicated that these are not essential features, and that they do not represent limitations at the point of novelty.

Notes and comments regarding Examiner's Interview Summary (PTOL-413)

1. Applicant believes that the Date of Interview, as indicated on page 1 of the PTOL-413, should be 28 December 2004, and not 27 December 2004. The interview was conducted on a Tuesday.
2. Continuation sheet, page 3, paragraph 1:

The applicant assumes that the Examiner's reference to a "slidable coupling and locking mechanism, as provided for in paragraph 1 on lines 17, 19, and 22, should read "detachable coupling and locking mechanism." This latter phrase is used on line 10 of the same paragraph.

3. Continuation sheet, page 3, paragraph 3, the Examiner states:

"On page 6, 3rd paragraph, it is noted that the downward angle is shown in either method of use: gathering or grasping. It is noted, however, that the claim is not set forth as the applicant argued, and neither a method of use claim provided".

The applicant indicated and strongly believes that the content of each independent claim dictates at least three important limitations requiring:

- a) the rigid and fixed coupling of the gathering head to the elongated handle at a fixed "pre-selected downward angle" (e.g., 30 degrees) [Sub-part "a"] ;
- b) the rigid and fixed coupling of the grasping member (e.g., second rake head) to the slidable grasping sleeve "at an angle substantially equal to the downward angle established between the gathering head and the elongated handle" [Sub part "b"] ; and
- c) that these fixed angles are maintained, at all times when using and operating the applicants device, as dictated by the described and claimed "slidable coupling of the two sub-units: the gathering portion and the grasping portion.

The device of Kerry, and the other prior art devices of record simply do not teach these limitations, and further are structured such that the angle of at least one of the gathering head (rake) and the grasping member (second rake) MUST change angle in order to operate, and grasp and pickup debris.

4. Continuation sheet, page 3, paragraph 1, lines 21 and 22 the Examiner states:

"...; while the sleeve, and handle portion do not form part of the novelty of the invention, ...".

The applicant may not have been clear when discussing this point. The applicant contends that the use of a slidable "grasping sleeve", which is not directly coupled to the grasping member (second rake head), at a fixed downward angle, is known and not novel. A number of prior art devices of record, including Kerry, Gascon, and Tolliver, all include links, pivot pins and/or hinges to couple their grasping portions (e.g., second rake heads) to the slidable sleeve.

Accordingly, the applicant strongly believes and stated that all the prior art of record teaches the translating of the slidable/linear motion of a grasping sleeve like structure (when included) to a rotational or pivoting motion - a "clam shell" or equivalent type of hinged action.

The applicant intended to convey that there are no known devices formed of two essential portions, with the two portions being slidably coupled - not just the grasping sleeve.

Results and Outcomes Of Interview:

1. No agreements reached on issues of merit. Examiner maintained drawing objections and 102(b) rejections.
2. Applicant will cancel/amend claims 4, 5, and 12-14, to address the drawing objections raised by the Examiner. The limitations of a "locking mechanism" and "detachable couplings" will be removed from the claims.

3. Applicant decided to amend independent claims, pending at the time of the interview, to address concerns and issues raised by the Examiner (see below), and to further and more clearly distance the present invention from the teachings of the prior art.

Ex: The applicant will amend the independent claims to address Examiner' concerns regarding possible "functional language" contained in sub-part-c describing the "slidable coupling" arrangement of the originally filed independent claims, claims 1 and 7.

Respectfully submitted,



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Agent for Applicant

23 JAN 05

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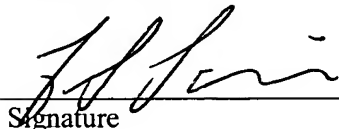
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24 JAN 05

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